

GUARANTY OF PERFORMANCE (TL)

This Guaranty of Performance (“Guaranty”) is made as of April 28, 2005 by Transurban Limited, an Australian corporation (the “Guarantor”), to the Virginia Department of Transportation, a department of the Commonwealth of Virginia (the “Department”) with respect to the obligations of Transurban (USA) Inc., a Delaware corporation (“Transurban”), under (i) that certain Comprehensive Agreement to Develop, Design, Finance, Construct, Maintain and Operate the Route 495 HOT Lanes in Virginia (the “Comprehensive Agreement”) dated as of April 28, 2005, by and among the Department, Fluor Enterprises, Inc., a California corporation (“Fluor”), and Transurban and (ii) any Project Agreements and Project Financing Agreements to which Transurban may become a party, but only to the extent described below. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Comprehensive Agreement. As a condition to entering into the Comprehensive Agreement, the Department has required the Guarantor to execute and deliver this Guaranty. Transurban is a wholly-owned subsidiary of the Guarantor. The Guarantor acknowledges that financial and direct benefits will accrue to the Guarantor by virtue of entering into this Guaranty and that such benefits constitute adequate consideration therefor.

ARTICLE I

GUARANTY

Section 1.01 Guaranty. The Guarantor hereby guarantees to the Department, absolutely, unconditionally and irrevocably, that each and every obligation of Transurban to the Department now or hereafter arising under the Comprehensive Agreement and any Project Agreements and Project Financing Agreements to which Transurban may become a party (each an “Agreement” and collectively, the “Agreements”) will be promptly performed, paid and satisfied in full when due and without offset (collectively, the “Guaranteed Obligations”); provided that Guaranteed Obligations shall not include any such obligations arising under the Agreements to the extent that Transurban provides a guaranty, surety bond, letter of credit issued by a United States bank or United States branch of a foreign bank or other assurance of performance acceptable to the Department as security for such obligations relating to Project operations and maintenance in accordance with Section 3.2.5.2(b) of the Comprehensive Agreement.

Section 1.02 Obligations Unconditional. Except as provided in Section 4.06 below, the obligations of the Guarantor hereunder are absolute, unconditional and independent of the Guaranteed Obligations of Transurban and shall not be impaired, modified, released or limited by any occurrence or condition whatsoever, and shall remain in full force and effect until all of the Guaranteed Obligations have been paid, performed and completed in full. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not affect the liability of the Guarantor hereunder:

(a) any failure of the Department to retain or preserve any rights against any person;

(b) the lack of prior enforcement by the Department of any rights against any person and the lack of exhaustion of any bond, letter of credit or other security held by the Department;

(c) the lack of authority or standing of Transurban or the dissolution of the Guarantor, Transurban or the Department;

(d) with or without notice to the Guarantor, the amendment, alteration, acceleration, extension, waiver, retirement, suspension, surrender, compromise, settlement, release, revocation or termination of, or failure to assert, any portion of the Guaranteed Obligations, the Agreements, any rights or remedies of the Department (including rights of offset) against Transurban, or any bond, letter of credit, other guaranty, instrument, document, collateral security or other property given or available to the Department to secure all or any part of the Guaranteed Obligations, provided that, notwithstanding the foregoing, the Guarantor shall have available to it the same defenses, if any, to performance of the Guaranteed Obligations that may be available to Transurban based on any such amendment, alteration, acceleration, extension, waiver, retirement, suspension, surrender, compromise, settlement, release, revocation or termination or failure to assert voluntarily made by the Department, except defenses available to Transurban under any federal or state law respecting bankruptcy, arrangement, reorganization or similar relief of debtors;

(e) the extension of the time for payment of any amount owing or payable under the Agreements or of the time for performance or completion of any Guaranteed Obligation; provided, however, that to the extent the Department grants Transurban an extension of time under the Comprehensive Agreement for performance of any of the obligations of Transurban thereunder, such extension of time shall likewise extend the time for performance by the Guarantor;

(f) except as otherwise provided in subsections (d) and (e) above, the taking or the omission of any of the actions referred to in the Agreements or of any actions under this Guaranty;

(g) the existence now or hereafter of any other guaranty or endorsement by anyone else of all or any portion of the Guaranteed Obligations;

(h) the acceptance, release, exchange or subordination of additional or substituted security for all or any portion of the Guaranteed Obligations;

(i) the taking of any action or the failure to take any action which would constitute a legal or equitable defense, release or discharge of a surety;

(j) any bankruptcy, arrangement, reorganization or similar proceeding for relief of debtors under federal or state law hereinafter initiated by or against Transurban, or any other guarantor of the Guaranteed Obligations or the Department;

(k) any full or partial payment or performance of any Guaranteed Obligation which is required to be returned as a result of or in connection with the insolvency, reorganization or bankruptcy of Transurban or otherwise;

(l) the rejection of any of the Agreements in connection with the insolvency, reorganization or bankruptcy of Transurban;

(m) an impairment of or limitation on damages due from Transurban by operation of law in any insolvency, reorganization or bankruptcy proceeding by or against Transurban;

(n) failure by the Department to file or enforce a claim against the estate (either in administration, bankruptcy or other proceedings) of Transurban, the Guarantor or any other guarantor of the Guaranteed Obligations;

(o) any merger, consolidation or other reorganization to which Transurban, the Department or the Guarantor is a party;

(p) any sale or disposition of all or any portion of the Guarantor's ownership of Transurban, or any other event which results in discontinuation or interruption in the business relations of Transurban with the Guarantor;

(q) except as otherwise provided in subsection (d) above, the lack of genuineness, validity, regularity or enforceability of any of the Guaranteed Obligations or the Agreements;

(r) the failure of the Department to assert any claim or demand, bring any action or exhaust its remedies against Transurban or any security before proceeding against the Guarantor hereunder; or

(s) the termination of any of the Agreements by reason of Transurban's default thereunder.

Section 1.03 Enforcement of the Agreements and Guaranteed Obligations.

(a) Nothing contained herein shall prevent or limit the Department from pursuing any of its rights and remedies under the Agreements, or any provisions thereof, according to their terms. The Department may apply any moneys, property or security available to it in such manner and amounts and at such times to the payment or reduction or performance of any Guaranteed Obligation as the Department may elect, and may generally deal with Transurban, the Guaranteed Obligations, such security and property as the Department may see fit. Notwithstanding the foregoing, the Guarantor shall remain bound by this Guaranty.

(b) Subject to Section 4.06 below, the Guarantor shall be obligated to undertake all curative action which may be agreed upon between the Department and Transurban. If, following notice under Section 4.06 below, the Guarantor does not use commercially reasonable efforts to proceed promptly to effectuate such curative action within a reasonable time, or should no agreement on the curative action be reached with Transurban within 14 days after the Department notifies Transurban and the Guarantor (or such longer period as may be permitted under Section 4.06 below) of the need for curative action (or immediately, in the case of emergency conditions), the Department, without further notice to the

Guarantor, shall have the right to perform or have performed by third parties the necessary curative action, and the reasonable costs thereof shall be borne by the Guarantor.

(c) The Department may bring and prosecute a separate action or actions against the Guarantor to enforce its liabilities hereunder, regardless of whether any action is brought against Transurban and regardless of whether any other person is joined in any such action or actions. Nothing shall prohibit the Department from exercising its rights against the Guarantor, Transurban or any other guarantor of the Guaranteed Obligations, or any other person simultaneously, or any combination thereof jointly and/or severally.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01 Representations and Warranties. The Guarantor hereby represents and warrants that:

(a) Consents. Transurban is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation. Transurban is a wholly-owned subsidiary of the Guarantor. Consent of Transurban to any modification or amendment of the Agreements constitutes knowledge thereof and consent thereto by the Guarantor;

(b) Organization and Existence. The Guarantor is a corporation duly organized, validly existing and in good standing under the laws of Australia;

(c) Power and Authority. The Guarantor has the full power and authority to execute, deliver and perform this Guaranty, and to own and lease its properties and to carry on its business as now conducted and as contemplated hereby;

(d) Authorization and Enforceability. This Guaranty has been duly authorized, executed and delivered by the Guarantor and constitutes the legal, valid and binding obligation of the Guarantor, enforceable against it in accordance with the terms hereof, subject as to enforceability of remedies to limitations imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the enforcement of creditors' rights generally, as applicable to the Guarantor, and to general principles of equity;

(e) No Governmental Consents. No authorization, consent or approval of, notice to or filing with, any governmental authority is required for the execution, delivery and performance by the Guarantor of this Guaranty;

(f) No Conflict or Breach. Neither the execution, delivery or performance by the Guarantor of this Guaranty, nor compliance with the terms and provisions hereof, conflicts or will conflict with or will result in a breach or violation of any material terms, conditions, or provisions of any Laws, Regulations and Ordinances applicable to the Guarantor or the charter documents, as amended, or bylaws, as amended, of the Guarantor, or any indenture, mortgage or contract or other agreement or instrument to which the Guarantor is a party or by which it or any of its properties is bound, or constitutes or will constitute a default thereunder or will result in the imposition of any lien upon any of its properties;

(g) No Proceeding. There is no action, suit, proceeding, investigation, indictment or litigation pending and served on the Guarantor which challenges the Guarantor's authority to execute, deliver or perform, or the validity or enforceability of, this Guaranty and the Guarantor has disclosed to the Department any pending and unserved or threatened action, suit, proceeding, investigation, indictment or litigation with respect to such matters of which the Guarantor is aware; and

(h) Comprehensive Agreement. The Guarantor is fully aware of and consents to the terms and conditions of the Comprehensive Agreement.

ARTICLE III

WAIVERS, SUBROGATION AND SUBORDINATION

Section 3.01 Waivers.

(a) The Guarantor hereby unconditionally waives:

(i) notice of acceptance of this Guaranty or of the intention to act in reliance hereon and of reliance hereon;

(ii) demand for performance, payment, presentment, protest and notice of nonpayment respecting any Guaranteed Obligation;

(iii) any demand for performance or payment hereunder except demand as set forth in Section 4.06 below;

(iv) notice of the incurring, contracting, amendment, alteration, acceleration, extension, waiver, retirement, suspension, surrender, compromise, settlement, release, revocation or termination of, or of the failure to assert, any Guaranteed Obligation or any Agreement;

(v) demand on the Guarantor in the event of default except demand as set forth in Section 4.06 below;

(vi) any invalidity of the Agreements due to lack of proper authorization of or a defect in execution thereof by Transurban, its purported representatives or agents;

(vii) all other notices to which the Guarantor might otherwise be entitled except notice as set forth in Section 4.06 below;

(viii) the provisions of Sections 49-25 and 49-26 of the Code of Virginia of 1950, as amended; and

(ix) any duty on the part of the Department to disclose to the Guarantor any facts the Department now or hereafter knows with regard to Transurban.

(b) The Guarantor also hereby waives any right to require, and the benefit of all laws now or hereafter in effect giving the Guarantor the right to require, any prior enforcement as referred to in Section 1.02(b) above, and the Guarantor agrees that any delay in enforcing or failure to enforce any such rights or in making demand on the Guarantor for the performance of the obligations of the Guarantor under this Guaranty shall not in any way affect the liability of the Guarantor hereunder.

(c) The Guarantor hereby waives, as against the Department and any person claiming under the Department, all rights and benefits which might accrue to the Guarantor by reason of any of bankruptcy, arrangement, reorganization or similar proceedings by or against Transurban and agree that its obligations and liabilities hereunder shall not be affected by any modification, limitation or discharge of the obligations of Transurban that may result from any such proceedings.

(d) Until Transurban shall have fully and satisfactorily paid, performed, completed and discharged all of the Guaranteed Obligations, the Guarantor hereby agrees not to file, or solicit the filing by others of, any involuntary petition in bankruptcy against Transurban.

Section 3.02 Subrogation. Until Transurban shall have fully and satisfactorily paid, performed, completed and discharged all of the Guaranteed Obligations, the Guarantor shall not claim or enforce any right of subrogation, reimbursement or indemnity against Transurban, or any other right or remedy which might otherwise arise on account of any payment made by the Guarantor or any act or thing done by the Guarantor on account of or in accordance with this Guaranty.

Section 3.03 Subordination.

(a) All existing or future indebtedness of Transurban to the Guarantor is subordinated to all of the Guaranteed Obligations. Whenever and for so long as Transurban shall be in default in the performance or payment of any Guaranteed Obligation, no payments with respect to such indebtedness shall be made by Transurban to the Guarantor without the prior written notice to the Department.

(b) The Guarantor shall file all claims against Transurban in any bankruptcy or other proceedings in which the filing of claims is required or permitted by law upon any obligation or indebtedness of Transurban or the Guarantor, and shall have assigned to the Department all of the Guarantor's rights thereunder to the extent of outstanding and unsatisfied Guaranteed Obligations. If the Guarantor does not file any such claim, the Department is authorized as the Guarantor's attorney-in-fact to do so in the Guarantor's name, or in the Department's discretion, the Department is authorized to assign the claim to, and cause proof of claim to be filed in the name of, the Department or its nominee. In all such cases, whether in administration, bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay to the Department or its nominee the full amount payable on the claim in the proceeding before making any payment to the Guarantor, and to the full extent necessary for that purpose, the Guarantor assigns to the Department all of its rights to any payments or distributions to which it otherwise would be entitled. If the amount so paid is in excess of the Guaranteed

Obligations covered hereby, the Department shall pay the amount of the excess to the party determined by it to be entitled thereto.

ARTICLE IV

MISCELLANEOUS

Section 4.01 Enforcement of Guaranty.

(a) The terms and provisions of this Guaranty shall be governed by and interpreted in accordance with the laws of the State applicable to contracts executed and to be performed within the State.

(b) No supplement, amendment, modification, waiver or termination of this Guaranty shall be binding unless executed in writing and duly signed by the Department and the Guarantor. No waiver of any of the provisions of this Guaranty shall be deemed or shall constitute a waiver of any other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. No failure on the part of the Department to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise of any other right.

(c) All disputes between the Department and the Guarantor arising under or relating to this Guaranty or its breach shall be filed, heard and decided in any applicable Circuit Court of the State, which shall have non-exclusive jurisdiction and venue. The Guarantor, to the extent permitted by applicable Laws, Regulations and Ordinances, (i) submits to the non-exclusive jurisdiction of such Circuit Court in any suit, action or other legal proceeding relating to this Guaranty; (ii) agrees that all claims in respect of any such suit, action, or other legal proceeding may be heard and determined in, and enforced in and by, any such Circuit Court; and (iii) waives any objection that it may now or hereafter have to venue in any such Circuit Court or that such Circuit Court is an inconvenient forum. The Guarantor agrees and consents to service of process by delivery in the manner and to the address set forth in Section 4.02 below. Nothing in this section shall affect the right of the Department to serve legal process in any other manner permitted by law.

(d) The rights of the Department hereunder are cumulative and shall not be exhausted by any one or more exercises of said rights against the Guarantor or by any number of successive actions until and unless the Guaranteed Obligations have been fully satisfied.

(e) Notwithstanding anything herein to the contrary, the Guarantor shall have the right to perform, pay and satisfy any and all of its obligations under this Guaranty by and through a Person, other than the Guarantor, resident in the United States.

(f) The Guarantor shall pay to the Department all reasonable out-of-pocket legal fees and other reasonable out-of-pocket costs and expenses (including fees and costs on appeal) the Department incurs by reason of any permitted enforcement by the Department of its rights hereunder, provided that the Department is the prevailing party with respect to a substantial portion of its claim.

(g) THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION OR CLAIM WHICH IS BASED ON, OR ARISES OUT OF, UNDER OR IN CONNECTION WITH, THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED BY THIS GUARANTY.

Section 4.02 Notices. Whenever under the provisions of this Guaranty it shall be necessary or desirable for one party to serve any notice, request, demand, report or other communication on another party, the same shall be in writing and shall not be effective for any purpose unless and until actually received by the addressee or unless served (a) personally, (b) by independent, reputable, overnight commercial courier, (c) by facsimile transmission, where the transmitting party includes a cover sheet identifying the name, location and identity of the transmitting party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page), where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device, and where the facsimile transmission is immediately followed by service of the original of the subject item in the manner permitted herein, or (d) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to the Department:

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219
Attn: Chief Engineer
Facsimile: (804) 786-2940

with copies to:

Virginia Department of Transportation
14685 Avion Parkway
Chantilly, Virginia 20151
Attn: Rte. 495 HOT Lanes PPTA Project Manager
Facsimile: (703) 383-2190

Office of the Attorney General
900 E. Main Street
Richmond, Virginia 23219
Attn: Richard L. Walton Jr., Esq.
Facsimile: (804) 786-9136

If to the Guarantor:

Company Secretary, Transurban Limited
Level 43 Rialto South Tower
525 Collins Street
Melbourne Vic 3000, Australia
Facsimile: (613) 9649-7380

with a copy to:

Hunton & Williams LLP
Riverfront Plaza - East Tower
951 East Byrd Street
Richmond, Virginia 23219
Attn: J. Waverly Pulley, III
Facsimile: (804) 788-8218

Section 4.03 Severability. If any provision of this Guaranty shall for any reason be held invalid or unenforceable, to the fullest extent permitted by law, such invalidity or unenforceability shall not affect any other provisions hereof, but this Guaranty shall be construed as if such invalid or unenforceable provision had never been contained herein.

Section 4.04 Assignment. Neither this Guaranty nor any of the rights, interest or obligations hereunder shall be assigned or delegated by the Guarantor without the prior written consent of the Department. This Guaranty and all of the provisions hereof shall be binding upon the Guarantor and its respective successors and permitted assigns and shall inure to the benefit of the Department and its respective successors and assigns.

Section 4.05 No Third Party Beneficiaries. Nothing in this Guaranty shall entitle any person other than the Department and its respective successors and assigns to any claim, cause or action, remedy or right of any kind.

Section 4.06 Certain Rights, Duties, Obligations and Defenses. Notwithstanding Sections 1.02 and 3.01 above, the Guarantor shall have all rights, duties, obligations and defenses available to Transurban under any of the Agreements relating to waiver, surrender, compromise, settlement, release or termination voluntarily made by the Department, failure to give notice of default to Transurban to the extent required by any of the Agreements, as applicable, interpretation or performance of terms and conditions of the Agreements or other defenses available to Transurban under any of the Agreements except those expressly waived in this Guaranty and defenses available to Transurban under any federal or state law respecting bankruptcy, arrangement, reorganization or similar relief of debtors. Action against the Guarantor under this Guaranty shall be subject to no prior notice or demand except for 14 days' prior written notice to the Guarantor setting forth the default or breach of Guaranteed Obligations on the part of Transurban and demand for performance and payment of such Guaranteed Obligations, provided that (i) if such breach or default is incapable of cure within 14 days despite the Guarantor's exercise of commercially reasonable efforts, such 14 day cure period shall be extended for such additional time as may be reasonably required to effect such cure, and (ii) immediate action after written notice may be required of the Guarantor in the case of emergency conditions.

Section 4.07 Mergers, etc. The Guarantor shall not, in a single transaction or through a series of related transactions, consolidated with or merge with or into any other person or sell, assign, convey, transfer, lease or otherwise dispose of any material portion of its properties and assets to any person or group of affiliated persons, unless:

- (a) in case of a merger, the Guarantor shall be the continuing corporation; or

(b) the person (if other than the Guarantor) formed by such consolidation or into which the Guarantor merges or the person (or group of affiliated persons) that acquires by sale, assignment, conveyance, transfer, lease or other disposition a material portion of the properties and assets of the Guarantor shall expressly agree to perform all of the obligations of the Guarantor hereunder, as a joint and several obligor with the Guarantor if the Guarantor continues to exist after such transaction, by a writing in form and substance reasonably satisfactory to the Department.

Notwithstanding the agreement by any such person to perform the obligation of the Guarantor hereunder, the Guarantor shall not be released from its obligations hereunder unless released by operation of law or by consent.

Section 4.08 Survival. The obligations and liabilities of the Guarantor hereunder shall survive termination of any of the Agreements or Transurban's rights thereunder due to default by Transurban thereunder.

Section 4.09 Headings. The Article and Section headings and the use of the terms "Article" and "Section" in this Guaranty are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

Section 4.10 Counterparts. This Guaranty may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

Section 4.11 Entire Agreement. This Guaranty constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. The Guarantor agrees to execute, have acknowledged and delivered to the Department such other and further instruments as may be reasonably required by the Department to effectuate the intent and purpose hereof.

[signatures on following page]

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed as of the day and year first above written by its duly authorized officers.

TRANSURBAN LIMITED,
an Australian corporation

By: Michael Kulper

Title: Vice President

Date: 4/28/2005

Signature on file at VDOT Central Office

Receipt of this Guaranty is hereby acknowledged
and accepted effective as of the 28th day of April, 2005.

VIRGINIA DEPARTMENT OF TRANSPORTATION,
a department of the Commonwealth of Virginia

By: Philip A. Shucet

Title: VDOT Commissioner

Signature on file at VDOT Central Office